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Attorneys for Plaintiff and the Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

WILLIAM FARRELL, individually and on
behalf of all others similarly situated,

Plaintiff,

γ

OPENTABLE, INC., a Delaware corporation,
d/b/a OpenTable.com.

Defendant.

Case No. CV 11-1785 SI

**STIPULATION FOR DEFENDANT TO
COLLECT REFUND INFORMATION
AND PAYMENT TO OBJECTOR'S
COUNSEL**

Judge: Honorable Susan Illston

RECITALS

1. On August 16, 2011, Plaintiff William Farrell and Defendant OpenTable, Inc. (collectively, “the Parties”) entered into a Class Action Settlement Agreement, filed as Dkt. No. 26-1 in the above captioned action (“the Agreement”).

2. On December 9, 2011, Fred Sondhiemer, a Settlement Class Member, filed with the Court a document styled “(Protective) Objection to Proposed Settlement and Award of Attorneys’ Fees and Costs and Request to Appear Telephonically” (the “Objection”).

3. One of the grounds for the Objection was that the Agreement contained no reporting requirement by which the parties would file with the Court a declaration stating:

- (a) the number of class members who received a refund; and
- (b) the number of class members who received a credit.

4. On January 30, 2012, over Mr. Sondheimer's Objection, the Court granted final approval to the Parties' Class Action Settlement Agreement, and awarded attorneys' fees to Class Counsel, and an incentive award to the Class Representative.

5. Notwithstanding the Court's final approval of the Settlement, the Parties have agreed to amend the Agreement through this Stipulation such that for a period of no more than one (1) year from the Final Settlement Date as that term is defined in Paragraph 1.11 of the Agreement, OpenTable shall maintain records reflecting any refunds or credits paid to Settlement Class members pursuant to Paragraph 1.22 of the Agreement and at the end of that one (1) year period, OpenTable shall file such information with the Court.

6. Objector Sondheimer and his counsel contend that they have brought value to the Settlement by testing its strength and prompting the Parties to enter into this Stipulation. They further contend it is appropriate to provide them compensation for the time and effort expended in lodging the Objection to the Settlement.

STIPULATION

NOW THEREFORE, the Parties (pursuant to Paragraph 7.3 of the Agreement) and Mr. Sondheimer, hereby **STIPULATE** and **AGREE** to the following:

1. For a period of no more than one (1) year from the Final Settlement Date as that term is defined in Paragraph 1.11 of the Agreement, OpenTable shall maintain reasonable records reflecting any refunds or credits paid to Settlement Class members pursuant to Paragraph 1.22 of the Agreement and at the end of that one (1) year period, OpenTable shall file such information with the Court;

2. Mr. Sondheimer shall request dismissal of his appeal in this case within twenty-four (24) hours of filing this stipulation with the Court by Plaintiff's counsel and a signed court order; and

3. Within fourteen (14) calendar days after OpenTable makes the payment under Paragraph 6.2 of the Agreement, Class Counsel shall pay to Mr. Sondheimer and his counsel the sum of \$7,000. Mr. Sondheimer's counsel shall be solely responsible for the allocation and distribution of any award to Mr. Sondheimer, as well as any of Mr. Sondheimer's successors, assigns, legatees, heirs, executors, and personal representatives that may assert any claim to all or part of such award. Mr. Sondheimer will not seek payment of any incentive award, service award, or honorarium from the Parties or their counsel.

Dated: April 27, 2012

WILLIAM FARRELL, individually and on behalf of all others similarly situated,

By: /s/ Rafey S. Balabanian

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SIGNATURES CONTINUED ON THE NEXT PAGE

Dated: April 27, 2012

OPENTABLE, INC., Defendant

By: /s/ Michael G. Rhodes

MICHAEL G. RHODES
mrhodes@cooley.com
COOLEY LLP
101 California Street, 5th Floor
San Francisco, California 94111-5800
Telephone: (415) 693-2181
Facsimile: (415) 693-2222

Dated: April 27, 2012

FRED SONDHEIMER, Class Member/Objector

By: /s/ Fred Sondheim

LAWRENCE W. SCHONBRUN
Lschon@inreach.com
86 Eucalyptus Road
Berkeley, California 94705
Telephone: (510) 547-8070
Facsimile: (510) 923-0627

1 [Proposed] **ORDER**

2 1. For a period of no more than one (1) year from the Final Settlement Date as that
3 term is defined in Paragraph 1.11 of the Agreement, OpenTable shall maintain reasonable records
4 reflecting any refunds or credits paid to Settlement Class members pursuant to Paragraph 1.22 of
5 the Agreement and at the end of that one (1) year period, OpenTable shall file such information
6 with the Court; and

7 2. Within fourteen (14) calendar days after OpenTable makes the payment under
8 Paragraph 6.2 of the Agreement, Class Counsel shall pay to Mr. Sondheimer and his counsel the
9 sum of \$7,000 to compensate them for the time and effort expended in lodging the Objection to the
10 Settlement.

11 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

12 Dated this 1st day of May, 2012

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16 HONORABLE SUSAN ILLSTON
17 UNITED STATES DISTRICT JUDGE

1 **FILER'S ATTESTATION**

2 Pursuant to General Order No. 45, Section X, Subparagraph B, the undersigned attests that
3 all signatories have concurred in the filing of this "STIPULATION FOR DEFENDANT TO
COLLECT REFUND INFORMATION AND PAYMENT TO OBJECTOR'S COUNSEL."

4 Dated: April 27, 2012

5 **WILLIAM FARRELL**, individually and on behalf of
all others similarly situated,

6 By: /s/ Rafe S. Balabanian

7 JAY EDELSON (*pro hac vice*)
8 jedelson@edelson.com
9 RAFEY S. BALABANIAN (*pro hac vice*)
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CERTIFICATE OF SERVICE

1
2 I, Rafey S. Balabanian, an attorney, hereby certify that on April 27, 2012, I served the above
3 and foregoing STIPULATION FOR DEFENDANT TO COLLECT REFUND INFORMATION
4 AND PAYMENT TO OBJECTOR'S COUNSEL, by causing true and accurate copies of such
5 paper to be filed with the Clerk of the United States District Court for the Northern District of
6 California via that Court's CM/ECF electronic filing system, which will cause the same to be
7 served on all persons entitled to receive electronic notice (i.e. email), and further by causing true
8 and accurate copies of such paper to be transmitted to Lawrence Schonbrun, Esq., counsel for
9 Objector Fred Sondheimer via email to: lschon@inreach.com, all on this the 27th day of April,
10 2012.
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10 /s/ Rafey S. Balabanian
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